

EXHIBIT 3

JUSTIN GUY
July 15, 2021

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUSTIN GUY, individually and on behalf
of those similarly situated,

Plaintiff,

vs

Case No. 20-cv-12734-MAG-EAS
HON. MARK A. GOLDSMITH

ABSOPURE WATER COMPANY, L.L.C., a
domestic limited liability company,
Defendant.

_____ /

ZOOM DEPOSITION OF JUSTIN GUY
Taken on the 15th of July, 2021, at 10:10 a.m.

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1 **A** **Yeah, nobody told me that, no. I was just a truck**
2 **driver, because I delivered.**

3 **Q** **Okay. Now, have you ever been a delivery driver before?**

4 **A** **Yeah.**

5 **Q** **Where?**

6 **A** **Amazon.**

7 **Q** **Who else?**

8 **MR. HANNA: Objection, relevance. You can**
9 **answer.**

10 **THE WITNESS: For delivery, that's about it,**
11 **Amazon.**

12 **Q** **(BY MR. ACHO): At Amazon, were you involved in sales at**
13 **all?**

14 **A** **No, just dropping off the packages, delivering the goods**
15 **just like Absopure.**

16 **Q** **So Absopure was just like Amazon, as far as you recall;**
17 **is that correct?**

18 **A** **No. That's two different companies, two different**
19 **meanings, two different job titles.**

20 **Q** **No, no, but aside from that, the actual functions were**
21 **the same. You just dropped product off, right, true?**

22 **A** **I'm not -- I'm not sure.**

23 **Q** **Okay. Now, it's your testimony that it wasn't until you**
24 **were fired that you knew that you were to get a CDL?**
25 **It's the first time you heard of that, correct?**

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1 MR. HANNA: Objection, form.

2 THE WITNESS: No.

3 MR. HANNA: Misstates prior testimony. You can
4 answer.

5 Q (BY MR. ACHO): Go ahead.

6 A No.

7 Q No, what? Why isn't that --

8 A I said no.

9 Q When did you -- when did you first find out that you were
10 required to have a CDL to keep your job? When did you
11 first find out?

12 MR. HANNA: Objection, form.

13 THE WITNESS: I'm not sure.

14 Q (BY MR. ACHO): Give us your best estimate, because you do
15 have a good memory.

16 A I got a good memory, but I worked there for almost two
17 years with no CDL, so I'm not sure what you're talking
18 about.

19 Q Well, let's think about it. You said at the time of your
20 hire, no one mentioned anything about a CDL to you.
21 That's what you testified, correct?

22 A I said that when I got hired in, he gave me a whole bunch
23 of papers and I signed them. I didn't read them, so I
24 don't know what those papers said or what I was supposed
25 to have.

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1 Q I'm not asking you about papers right now. We'll get to
2 that in a minute. I'm asking you did you testify today,
3 this morning, within the last 30 minutes, that no one
4 told you you had to have a CDL? That's what you said,
5 right?

6 MR. HANNA: Objection, form.

7 Q (BY MR. ACHO): Go ahead.

8 A I'm not sure.

9 Q You're not sure of what?

10 A I'm not sure that -- what you're talking about.

11 Q You said no one told you you had to have a CDL. That's
12 what you said.

13 MR. HANNA: Are you sure about that Mr. -- hold
14 oh, hold on, hold on, hold on. Are you sure about that,
15 Mr. Acho, you're quoting what he said? Because you're
16 representing on the record that that's exactly what he
17 said; is that correct?

18 MR. ACHO: Okay. Okay, counsel, I would cite
19 you to 30(c)(2) again.

20 MR. HANNA: Okay. So I'm asking you -- I'm
21 asking you a question, Mr. Acho, because you're -- it
22 seems to me you're misrepresenting prior testimony in an
23 attempt to badger the witness. So I'm asking you, can
24 you advise -- for the record, are you sure about that, is
25 that a direct quote? Because you keep badgering him

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1 Say it again.

2 A I was looked at as an Absopure delivery driver. I don't
3 know where "associate" came from. I don't know -- ain't
4 never even -- nobody called me an associate, so, no, I
5 wasn't looked at as that.

6 Q And the subject is service specialist, notice, bonus
7 plan. Were you on the bonus plan when you got hired?

8 A No. Never received a bonus, nothing. So that's for all
9 the service specialists, that's why I never received one.

10 Q Well, besides your daily rate, didn't you have an
11 opportunity to get a bonus by way of commission?

12 A I never received a bonus, so no.

13 Q Well, weren't the commissions considered a bonus over
14 your daily rate?

15 A No. That commission was what I was being paid for what I
16 did at work, plus the daily rate.

17 Q Okay. Please help me, because I'm having difficulty
18 understanding this. How were you paid?

19 A \$120 a day, plus commission.

20 Q What was the commission based on?

21 A Everything that I delivered for the day.

22 Q So did you have an opportunity to make some significant
23 money by way of commission which is over and above your
24 daily rate? Did you have that opportunity?

25 A I'm not sure what your referring to.

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1 MR. HANNA: Objection, form. You can answer.

2 THE WITNESS: I'm not sure what you're
3 referring to.

4 Q (BY MR. ACHO): Okay. When you applied for the job, did
5 they describe how you would get paid?

6 A Yeah. Drive the truck, deliver the water and get \$120 a
7 day, plus commission off of what I drop off.

8 Q Well, what did they say about the commission?

9 A The commissions, you had to like, I think, deliver -- it
10 was a certain amount of water. I don't know, something
11 like that. But whatever -- you know, I mean, the water
12 you delivered, you just get a commission for it, you
13 know.

14 Q So the more you sold, the more money you made, correct?

15 MR. HANNA: Objection.

16 THE WITNESS: No. I never sold anything.

17 Q (BY MR. ACHO): Pardon me?

18 A I never sold anything.

19 Q So when you delivered product, other than, hi, how are
20 you, you never said anything else to the people, correct?
21 Is that a fair statement?

22 A Yeah, I asked them how they doing, how their day going.

23 Q But other than that, that's all you said to them,
24 correct?

25 MR. HANNA: Objection. Form, vague.

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1 Q (BY MR. ACHO): Go ahead.

2 A I'm not sure what I said three years ago to an individual
3 person for thirty times a day. I did thirty deliveries a
4 day. I don't know exactly what I said to each person.
5 No, I do not know.

6 Q I apologize. I'm not asking you what you said to each
7 person. I'm saying other than a greeting, a hello, how
8 are you, something like that, that's all you said to
9 them? You didn't try to sell them anything, correct?

10 A I didn't have to, everything was sold. Why would I -- I
11 don't have to sell anything. Absopure sold the water, I
12 delivered it for them.

13 Q Okay. So your efforts had nothing to do with your
14 commission, none at all, correct?

15 A No. That's -- oh, I'm sorry.

16 MR. HANNA: Objection, form. Misstates prior
17 testimony. You can answer.

18 Q (BY MR. ACHO): Go ahead.

19 A All I did was deliver the water. That's all I did.

20 Q But that's not my question.

21 A What's your question?

22 MR. ACHO: Wendy, please read the question back
23 and retype it again, please.

24 COURT REPORTER: One moment. So your efforts
25 had nothing to do with your commission, none at all,